

**BYLAWS OF THE
U.S. ENVIRONMENTAL PROTECTION AGENCY
NATIONAL ADVISORY COUNCIL
FOR ENVIRONMENTAL POLICY AND TECHNOLOGY**

ARTICLE I - NAME

The name of the organization shall be the National Advisory Council for Environmental Policy and Technology.

ARTICLE II - AUTHORITY

The National Advisory Council for Environmental Policy and Technology (hereinafter referred to as NACEPT or the Council) is established by Agency authority, within the U.S. Environmental Protection Agency (EPA), Office of the Administrator, Office of Cooperative Environmental Management (OCEM), under a charter approved by the Deputy Administrator, and reviewed by the U. S. General Services Administration.

NACEPT advises the Administrator of EPA consistent with its current approved charter and the requirements of the Federal Advisory Committee Act (5 U.S.C.App.)(FACA).

ARTICLE III - MISSION AND SCOPE

Founded in 1988, NACEPT is EPA's national advisory body for the formulation of recommendations and advice on domestic and international environmental policy, management and technology issues. NACEPT provides a forum for public discussion, and the development of independent advice and counsel to the EPA Administrator by taking advantage of the respective experiences, strengths and responsibilities of a broad range of Agency constituents and stakeholders, including (but not limited to): business and industry, all levels of government, tribes, academia, labor, environmental advocacy organizations, environmental justice groups, community groups and grass roots organizations.

NACEPT's mission is to help EPA improve the effectiveness and implementation of environmental programs by fostering more efficacious use of its resources, as well as those of all public and private institutions involved in environmental management. NACEPT's activities are designed to:

- (1) Promote continuing consultation and debate to ensure mutual understanding among the institutions involved in or affected by environmental policy and management;
- (2) Maximize the extent to which each participant understands, accepts, and fulfills their environmental policy and management responsibilities;
- (3) Facilitate broad public sharing of information on environmental

policy development as well as alternative approaches and implementation strategies for addressing them; and (4) Promote consideration of alternative strategies for leveraging resources to address environmental needs.

ARTICLE IV - MEMBERSHIP

Section 1. Representation

The Council shall consist of senior-level decision-makers and subject-matter experts (SMEs) from among a broad range of interests, including but not limited to, academia, business and industry, community groups, national and local environmental advocacy groups, environmental justice organizations, federal, state, and local governments and regulators, labor organizations, non-governmental organizations, professional organizations, and tribes.

Section 2: Participant Categories, Appointment Process, and Terms

a. NACEPT Council Members

1. NACEPT Council members, (hereinafter, Council Members) shall be uncompensated volunteers who have an equal voice and power in decision making as it affects all Council and Committee actions in which they participate.
2. Each Council member shall serve as a member of at least one NACEPT Committee, and may serve as a member of any working group, task force, etc., formed under NACEPT auspices.
3. Council members are appointed by the EPA Deputy Administrator, in consultation with the NACEPT Designated Federal Officer and Council Chair. Council members serve at the pleasure of the Deputy Administrator, and may serve for a term of one or two years. If the Council member's assigned Committee should complete its work before the end of his/her term, the member's appointment will automatically expire at that time. A Council member may be reappointed or reassigned to another NACEPT Committee by the EPA Deputy Administrator.
4. As NACEPT's final decision-making body, the Council will not seat non-NACEPT alternates for the purpose of conducting business. Any member not able to attend a Council meeting may send a representative of their stakeholder group to be seated in close proximity to the Council table. While such representatives may be asked for their opinion before the Council makes a final decision on an issue or recommendation, they will not take part in ongoing Council deliberations, nor will they be eligible for reimbursement for travel expenses by the Agency.

5. NACEPT Committee Members who are not members of the Council shall not participate in the decision making approval process affecting matters under consideration by the full Council.
6. The NACEPT Council shall decide on appropriate decision-making strategies to use for developing consensus recommendations. Strategies for consensus building should include an iterative process that allows the views and interests of each member to be heard.

b. NACEPT Committee Members and Members of Other Groups formed under NACEPT Auspices

1. NACEPT Committee Members (hereinafter, Committee Members) shall be uncompensated volunteers named to serve on a specific committee or other group formed under NACEPT auspices and shall be full participants in Committee deliberations.
2. Committee Members are appointed by the EPA Deputy Administrator, in consultation with NACEPT's Designated Federal Officer (DFO) and the DFO for the relevant Committee. The term of a Committee Member shall be set in accordance with the needs of the Deputy Administrator, and will be conveyed to the Committee Member at the time of appointment. Generally, individuals shall be appointed to a one or two year term. If the Committee Member's assigned Committee should complete its work before the end of his/her term, the Committee member's appointment will automatically expire at that time. A Committee member may be reappointed to consecutive one year terms as deemed appropriate by the Deputy Administrator. Terms should not exceed six (6) years unless the need is justified by the Office of Cooperative Environmental Management, and granted by the Deputy Administrator.
3. Committees will not seat alternates for the purpose of conducting business. Any member not able to attend a Committee meeting may send a representative of their organization to be seated in close proximity to the Committee's table. While such representatives may be asked for their opinion before the Committee makes a final decision on an issue or recommendation, they will not take part in ongoing Committee deliberations, nor will they be eligible for reimbursement for travel expenses by the Agency.
4. The Committee Members shall decide on appropriate decision-making strategies for consensus building within their Committee(s). Strategies for consensus should reflect an iterative process that allows the views and interests of each member to be heard and considered.

c. Expert Witnesses and Consultants

Expert witnesses and consultants may be invited by the Chair of either the Council or a

Committee, in consultation with the appropriate DFO, to provide specialized information or assistance to the inviting body. Such individuals, however, are not to be considered members of either the Council or Committee(s).

Section 3. Termination of Membership

- a.** The Deputy Administrator may consider removing a Council Member or Committee member if the Member misses two consecutive meetings of the Council, or relevant Committee.
- b.** A Council Member or Committee Member who changes their professional affiliation may be removed in order to maintain appropriate balance among sectors of membership.
- c.** A Council Member or Committee Member may be removed for cause, as determined by the EPA Deputy Administrator, when:
 - 1. He/She is determined to have violated the Ethics in Government Act;
 - 2. Personal/Professional circumstances would prove detrimental or disruptive to his or her continued participation in the Council's or the Committee's work; or,
 - 3. For other reasons the Deputy Administrator deems appropriate.

ARTICLE V - COUNCIL ORGANIZATION

The NACEPT Council is comprised of a Chair and Vice Chair, the NACEPT Designated Federal Officer, the Chairs of each Committee, and other key Committee members as identified by the Deputy Administrator. As the final decision making body, the Council is responsible for reviewing, approving, and forwarding all reports and recommendations prepared on behalf of NACEPT to the Agency.

Other responsibilities of the Council include actively participating in NACEPT's strategic planning process; reviewing and measuring progress for each NACEPT Committee; peer reviewing and approving Committee reports and products; and serving as a "sounding board" for new strategies the Agency may be developing/considering.

Section 1. Officers

a. Council Chair

The Council shall have a Chair appointed by the Deputy Administrator, in consultation with the NACEPT DFO. The Chair shall serve a two-year term of office. The Chair may be reappointed to a second term if the Deputy Administrator deems it appropriate. The Chair works with the DFO to establish priorities and identify issues which must be addressed. In addition, the Chair is responsible for managing Council meetings and for certifying the accuracy of Council meeting

minutes.

b. Council Vice Chair

The Council shall have a Vice Chair appointed by the Deputy Administrator, in consultation with the Council Chair and the DFO. The Vice Chair shall serve in the absence of the Chair and shall undertake ongoing responsibilities as determined by the Council Chair and DFO. The Vice Chair shall serve a two-year term of office and may be reappointed to a second term if the Deputy Administrator deems it appropriate.

c. Committee Chairs and Vice Chairs/Co-Chairs

1. Each Committee shall have a Chair and Vice Chair/Co-Chair, appointed by the DFO of the Committee, in consultation with the NACEPT DFO and the Committee's primary EPA sponsor/client office. Each Committee Chair and Vice Chair/Co-Chair shall serve a one or two year term of office. Committee Chairs and Vice Chairs/Co-Chairs may be reappointed.
2. The Committee Chair works with the DFO to establish priorities, and identify issues which must be addressed. In addition, the Chair is responsible for managing Committee meetings and for certifying the accuracy of minutes to document the meetings.
3. The Vice-Chair/Co- Chair shall serve in the absence of the Chair and shall undertake ongoing responsibilities as determined by the Committee Chair and DFO.

d. Chairs of Other Groups Formed Under NACEPT Auspices

The Chairs of subcommittees, work groups, task forces, and other groups formed under NACEPT auspices, shall be approved by the Committee's DFO, in consultation with the Committee Chair.

e. Designated Federal Officers

NACEPT's Council, Executive Committee, Committees, and other groups shall have a salaried federal employee of the Agency serve as Designated Federal Officer (DFO). A DFO will be present at all Council and Committee meetings and is authorized to adjourn any such meeting whenever he or she determines it to be in the public interest to do so. Additionally, the NACEPT DFO, and DFOs of Committees and other groups formed under the auspices of NACEPT, are responsible for providing adequate staff support to ensure performance of the following functions:

1. Preparing the meeting agendas;

2. Securing appropriate meeting sites;
3. Notifying members, and the public, of the time and place for each meeting;
4. Securing the participation of Agency Officials, SMEs, consultants, and any other speakers deemed appropriate by the membership;
5. Facilitating, or securing the services of facilitators, to ensure meetings are appropriately structured and productive;
6. Distribution of materials to Council and/or Committee members that will be required by the membership as it conducts its business.
7. Maintaining records of all meetings, including the activities of other groups under the auspices of NACEPT;
8. Maintaining Committee/group membership lists;
9. Preparing the minutes of all meetings, including the activities of other groups under the auspices of NACEPT;
10. Attending to official correspondence;
11. Maintaining official NACEPT records and filing all papers and submissions prepared for, or by, the Council and/or Committees, including those items generated by other groups under the auspices of NACEPT; and
12. Preparing and handling all reports, including quarterly and annual reports as required by GSA and FACA.
13. File Council-approved Final Committee Reports with the Library of Congress.

Section 2. Executive Committee

- a. There shall be an Executive Committee of the Council consisting of the Chair and Vice Chair of the Council as well as the Chair and Vice-Chair/Co-Chair of each Committee. NACEPT's DFO shall be the DFO for the Executive Committee.
- b. The Executive Committee and the NACEPT DFO shall:
 1. Be responsible for leading the strategic planning process for the Council;

2. Coordinate activities among the Committees with the DFOs;
 3. Anticipate and resolve potential issues and conflicts within the Council and/or Committees; and,
 4. Plan and implement the coordination of the Council's work.
- c. The Executive Committee will work with its DFO and the Office of Cooperative Environmental Management to ensure that all NACEPT Committees share information and adhere to NACEPT's bylaws.

Section 3. Committee Structure

- a. The number, designation, mission, scope and membership of Committees at any time will be subject to approval by the Deputy Administrator, and subject to agreement between the NACEPT DFO and Committee DFOs.
- b. Other groups formed under NACEPT auspices (e.g., a subcommittee, focus group, workgroup, etc.) may be formed upon agreement between the NACEPT DFO and the requesting Committee's DFO. Such groups will operate under the rules of their parent Committee, and will not function or report recommendations independently.
- c. The Council shall act principally through its Committee structure. In accordance with FACA requirements, Committees or other groups formed under NACEPT auspices may not function or report recommendations independently of the Council.

ARTICLE VI - MEETINGS

Section 1. Compliance with FACA

NACEPT and its Committees will operate in accordance with all applicable requirements of FACA. Such requirements include but are not limited to: publishing notices of meetings in the Federal Register, holding open meetings, and generating and distributing minutes of meetings.

a. Open Meetings:

1. Unless otherwise determined in advance and authorized by the EPA Administrator, all meetings of NACEPT will be open to the public. Once an open meeting has begun, it will not be closed for any reason.

2. All materials brought before, or presented to the Council, Committees, or other groups during the conduct of an open meeting will be made available to the public for review at the time of the scheduled meeting. In the event it is not possible to provide a copy for the public at the time of the scheduled meeting, members of the public will be informed and afforded an opportunity to have a copy of any materials referenced in the meeting delivered to them within a reasonable period of time after the meeting has ended.
3. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may, at the determination of the Chair and DFO, offer oral comments at such meeting. The Chair may decide in advance to exclude oral public comments during a meeting, in which case the meeting announcement published in the Federal Register will note the exclusion of oral comments, but with an invitation to submit written comments as an alternative.

b. Closed Meetings:

1. Meetings of the Council, Committees, or other groups will be closed only in limited circumstances, in accordance with FACA policy, and only with the express written approval of the Office of General Counsel (OGC), the Committee Management Official (CMO), and the EPA Administrator.
2. Requests for closed meetings must also be approved by EPA's CMO and by OGC at least 30 days in advance of the session.
3. Where the DFO has determined in advance that discussions during a Council or Committee meeting will involve matters about which public disclosure would prove harmful to the interests of the Government, industry, or others, advance notice of a closed meeting, citing the applicable exemptions of the Government in the Sunshine Act, must be published in the Federal Register at least 15 days in advance of the session.
4. The Federal Register Notice may announce the closing of all or part of a meeting. If during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the Chair of the Council or Committee will order such discussions to cease and will petition the Administrator for a closed session to be held at a later date.
5. The DFO shall prepare, annually, a Closed Meeting Report which will summarize the activities of all closed meetings held, and will submit such report to the CMO.

c. Minutes and Records:

1. Designated Federal Officers will be responsible for the preparation and distribution of their Committees' minutes, and will include a record of the attendees (including the names of

members of the public from whom written or oral presentations were made); a complete and accurate description of the matters discussed; conclusions reached; and, copies of all reports received, issued or approved by the Council.

2. Draft meeting minutes will be reviewed by Committee members, and Committee/Council Chairs will be responsible for final review and written approval of meeting minutes prior to distribution.
3. DFOs are required to distribute copies of approved minutes to each member of the Council, or Committee, as appropriate.
4. Minutes of open meetings must be available to the public upon request.
5. Minutes of closed meetings will be available to the public upon request, subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the Government in Sunshine Act (GISA) § 552b of Title 5, U.S.C.

Section 2. Meeting Scheduling

- a. The full Council shall meet in a plenary session at least annually.
- b. The Executive Committee shall meet periodically, at the request of the Council Chair and the NACEPT DFO.
- c. Committees or other groups formed under NACEPT auspices shall meet as needed at the call of the Committee Chair and the DFO.
- d. The Council, Committees, and other groups may not conduct any meetings in the absence of a DFO or his/her Federal designee.

Section 3. Quorum

- a. The presence of 51 percent of the Council members shall constitute a quorum for the transaction of business.
- b. The presence of 51 percent of Committee members shall constitute a quorum for the transaction of business.
- c. In the event a quorum is not convened, Committee/Council business not requiring a consensus decision may be conducted. Consensus decisions will be deferred until such time as a quorum might be convened.

ARTICLE VII - REPORTS AND RECOMMENDATIONS

Section 1. NACEPT Documents, Reports, or Other Materials

All documents, reports, or other materials prepared by, or for, the Council constitutes official government records and must be maintained according to EPA policies and procedures.

Section 2. NACEPT Committee Reports and Recommendations

- a. A Committee or other group formed under NACEPT auspices may bring a proposed recommendation forward to the full Council for review and approval at any time.
- b. Agreement through a consensus process (as defined and approved by the members of a Committee or other group formed under NACEPT auspices) shall be sufficient for forwarding a recommendation to the full Council for review and approval. Approval of a recommendation may take place in a Committee meeting, by electronic mail, or by mail in writing.
- c. Should a subcommittee, focus group, workgroup, etc., of a NACEPT Committee develop reports, recommendations, advice, etc., such products must be submitted to its parent Committee for approval, and cannot be independently submitted by such group(s) for Agency and/or Council consideration. Submission of any product to the Council for its consideration must come from the parent Committee.
- d. Committees or other groups formed under NACEPT auspices may issue their own draft reports, including draft recommendations, if approved by the body's members as described in Article VII.2.b. However, these reports shall be considered Drafts, and shall be appropriately labeled as Draft NACEPT Committee reports by the Agency until they have undergone NACEPT Council review and approval. Committee reports must not be submitted to EPA as recommendations or advice, and will not be considered NACEPT recommendations or advice, until the Council's review and approval.

Section 3. Council Reports and Recommendations

- a. If a report or recommendation has been approved by a Committee or group formed under NACEPT auspices, in accordance with Article VII.2 it shall be accepted for formal review by the full NACEPT Council.
- b. Each accepted report or recommendation shall be distributed to all NACEPT Council Members for a minimum 30 calendar day review. A Council Member not submitting comments by the close of the 30-day review period shall be assumed to approve the report or

recommendation.

- c. Final Council action on a proposed recommendation shall be completed within a maximum of 90 calendar days from the date the proposed report or recommendation was submitted to the full Council for review and approval. Accepted Council action can occur at scheduled Council Meetings, by electronic mail, or by mail, in writing.
- d. Waiver: Provisions regarding the length of comment and review period in Articles VII.3.b and VII.3.c may be waived in circumstances where a requirement for an immediate response has been identified based on Agency need, planning or budget cycles, Congressional deadlines, regulatory requirements, or where other exceptional circumstances may exist. A waiver of Council review time may be determined by the Council Chair and NACEPT DFO, in consultation with the requesting Committee's Chair and DFO.
- e. The Council Chair shall transmit an approved Council report or recommendation directly to the EPA Administrator and Deputy Administrator upon approval by the Council. Significant minority views may be transmitted with an approved report or recommendation at the request of the proposing Committee's Chair and DFO. NACEPT Council reports and recommendations will be made available to the public in accordance with Section 10(b) of FACA, and are also subject to the Freedom of Information Act requirements. All Council approved Final Reports and/or recommendations shall be filed with the Library of Congress.

Section 4. NACEPT Information Reports

All materials prepared by NACEPT, its Committees, and other groups formed under NACEPT auspices are available to the public in accordance with the Federal Advisory Committee Act, section 10(b) and subject to the Freedom of Information Act. Groups formed under NACEPT auspices may issue background documents, issue papers, and other materials as specially prepared NACEPT information reports. The release of a NACEPT information report does not imply that its contents have been approved or agreed to by either the Council or a group formed under NACEPT auspices, nor that its contents are recommendations or advice to EPA; the information report shall clearly reflect this. Information reports are also subject to the Freedom of Information Act requirements and are available to the public.

ARTICLE VIII - AMENDMENTS TO BYLAWS

To ratify, amend, or repeal (in whole or in part) NACEPT's Bylaws, a minimum two-thirds of the Council Membership is required. Such action may be taken at any regular meeting, by electronic mail, or by mail, in writing, provided that a notice of intent to do so shall have been given to each Member at least 30 days preceding the date for a final decision.